

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ROBERT D. O'NEAL,

Petitioner,

v.

Case No. 20-C-1847

UNITED STATES OF AMERICA,

Respondent.

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**DECISION AND ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT**

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On December 14, 2020, Petitioner Robert D. O'Neal filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. On initial screening, the Court denied O'Neal's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255, on December 21, 2020, because O'Neal failed to state a claim upon which relief could be granted. Presently before the Court is O'Neal's motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b). "A Rule 60(b) motion permits relief from judgment [only] when it is based on one of six specific grounds listed in the rule." *Talano v. Nw. Med. Faculty Found.*, 273 F.3d 757, 762 (7th Cir. 2001). Those six grounds for relief include:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b). “[R]elief from judgment under Rule 60(b) is an extraordinary remedy and is granted only in exceptional circumstances.” *Bakery Mach. & Fabrication, Inc. v. Traditional Baking, Inc.*, 570 F.3d 845, 848 (7th Cir. 2009) (citation omitted).

O’Neal fails to provide the specific ground under Rule 60 upon which he seeks to alter the judgment. Even if the Court were to consider his motion under Rule 60(b)(6)’s “catch all” provision, O’Neal presents no exceptional circumstances warranting relief from judgment. O’Neal argues that the Court made mistakes of fact in its screening order and requests that the Court grant the motion to vacate, set aside, or correct the sentence. After considering O’Neal’s arguments, the Court concludes there is no basis to grant his motion. O’Neal’s motion merely asserts arguments previously made in his § 2255 motion and rejected by the Court. It does not offer any other factual or legal argument that convinces the Court that its December 21, 2020 decision was in error. Accordingly, O’Neal’s motion for relief from judgment (Dkt. No. 4) is **DENIED**.

**SO ORDERED** at Green Bay, Wisconsin this 13th day of October, 2021.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge